

**REGULAR MEETING OF Tuesday, July 27, 2010
CITY COUNCIL CHAMBERS, ONE TWIN PINES LANE AND
HILTON GARDEN INN, BUSINESS CENTER, 560 MAIN AVENUE, NORWALK, CT
06851, (teleconference location of Councilmember Lieberman)**

SPECIAL MEETINGS

CLOSED SESSION - 7:00 P.M.

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation: PAMI vs. City of Belmont
- B. Conference with Real Property Negotiator de Melo pursuant to Government Code Section 54956.8: Eight Parcels, APN's 044-222-210, 043-030-010, 043-030-020, 043-030-260, 043-030-270, 043-030-280, 043-021-540, & 043-021-690
- C. Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Significant exposure to litigation, one case
- D. Conference regarding Public Employee Appointment Pursuant to Government Code Section 54957: City Manager

Attended by: Councilmembers Feierbach, Wozniak, Warden, Braunstein, Acting City Manager/Community Development Director de Melo, City Attorney Zafferano, Human Resources Director Dino, and City Treasurer Violet. Councilmember Lieberman was absent, and City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:40 P.M.

Terri

Cook

City Clerk

This meeting was not tape recorded or videotaped.

REGULAR MEETING

CALL TO ORDER - 7:40 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Warden, Wozniak, Braunstein, Lieberman (via teleconference)

COUNCILMEMBERS ABSENT: None

Staff Present: Acting City Manager/Community Development de Melo, Human Resources Director Dino, Deputy Finance Director Lazzari, Fire Chief Fry, Police Chief Mattei, Finance Director Fil, City Treasurer Violet, City Clerk Cook

PLEDGE OF ALLEGIANCE

Led by Mayor Wozniak.

REPORT FROM CLOSED SESSION

City Attorney Zafferano stated that at the Closed Session on July 21, 2010, the City Council voted 4-0 (Braunstein absent) to accept the labor concession offered by the Belmont Police Officers Association. He noted that there was an item on tonight's agenda to formalize this action. He announced that direction was given and no action taken on a Closed Session matter held on July 26, 2010. He clarified that Closed Session Item C (Conference Regarding Significant Exposure to Litigation) was not held, as it was the subject of the July 26th Closed Session.

City Attorney Zafferano stated that Closed Session Item B (Property Negotiations) would be continued to the end of tonight's regular meeting. He announced that on a unanimous vote of 4-0 (Braunstein absent), the City Council appointed Thomas Fil as Acting City Manager from August 1 through 15, 2010, and Carlos de Melo as Acting City Manager from August 16 through 31, 2010.

PUBLIC COMMENTS AND ANNOUNCEMENTS

George Burgess, Belmont Chamber of Commerce, announced that the Chamber is selling emergency food kits at a discounted rate.

Mary Morrissey-Parden, Belmont Chamber of Commerce, outlined activities that will take place at the Carlmont Shopping Center for National Night Out on August 3rd. She also announced the passing of long-time Chamber member Mary Lou South.

John Violet, Friends of the Belmont Library, outlined upcoming activities at the Library that have been funded by the Friends. He encouraged residents to become involved with the Friends, as there is a need for more volunteers.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Mayor Wozniak outlined activities that would be taking place throughout the City during National Night Out on August 3rd.

AGENDA AMENDMENTS

Mayor Wozniak noted that the order of the two Public Hearings on tonight's agenda would be reversed so that Councilmember Lieberman could participate in the urgency ordinance before he had to disconnect from his teleconference.

Councilmember Feierbach requested the removal of Consent Agenda Item 4-E (Resolution Authorizing the City Manager to Execute a Professional Services Agreement to Conduct Environmental Review for the Construction of Ten Condominiums on a Vacant Property on Carlmont Drive) for separate consideration.

Councilmember Warden stated that although he would not pull the item for separate consideration, he would be registering a no vote on Consent Agenda Item 4-C (Second Reading of Sewer Ordinance).

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of June 22, 2010, Special Meeting of June 27, 2010, Special Meeting of June 28, 2010, Special Meeting of June 29, 2010, and Special and Regular Meeting of July 13, 2010

Approval of Informational Report for the U.S. Highway 101 Pedestrian/Bicycle Bridge Project, City Contract Number 433

Adoption of Ordinance 1050 Increasing the City's Sewer Charges (2nd reading and adoption)

Approval of Resolution 10263 Authorizing the City Manager to Execute a Professional Services Agreement for Landscaping Design with Sugimura Finney Architects for an Amount not to Exceed \$15,000 for the U.S. 101 Pedestrian/Bicycle Bridge Project, City Contract Number 433

Approval of Resolution 10264 Approving Establishment of Two "No Parking" Zones on Broadway at Paloma Avenue

Approval of Resolution 10265 Approving a General Plan Amendment Adopting the 2007-2014 Housing Element, and **Approval of** Resolution 10266 Adopting a Negative Declaration of Environmental Impact

Approval of Resolution 10267 Approving an Amendment to the Freeway Maintenance Agreement between the State of California and the City of Belmont for the U.S. Highway 101 Interchange at Ralston Avenue

ACTION: On a motion by Councilmember Braunstein, seconded by Councilmember Feierbach, the Consent agenda was unanimously approved by a roll call vote with the exception of Ordinance 1050 Increasing the City's Sewer Charges, which was adopted by a roll call vote of 4-1 (Warden no).

ITEM REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Authorizing the City Manager to Execute a Professional Services Agreement to Conduct Environmental Review for the Construction of Ten Condominiums on a Vacant Property on Carlmont Drive (adjacent to 1114 Village Drive)

In response to Councilmember Feierbach, Community Development Director de Melo outlined the discussion that the Planning Commission had relative to this matter. He noted that concerns were raised relative to the size of the project. He clarified that the Commission held a conceptual review only, and that the applicant has made a formal application for this project.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Braunstein, Resolution 10268 Authorizing the City Manager to Execute a Professional Services Agreement to Conduct Environmental Review for the Construction of Ten Condominiums on a Vacant Property on Carlmont Drive (adjacent to 1114 Village Drive) was unanimously approved by a roll call vote.

HEARINGS

Public Hearing to Consider an Urgency Ordinance Pursuant to Government Code Section 65858(a) Imposing a Moratorium on Issuance of New Massage Technician and Massage Establishment Permits (item taken out of order on agenda)

City Attorney Zafferano stated that this urgency ordinance would provide time for staff to revise the existing ordinance governing massage establishments and technician permits, and would also allow time for the State of California to clarify the scope of the City's regulatory role. He noted

that the California Massage Therapy Council (CAMTC), a nonprofit organization, was established by the State in September of 2009 for the purpose of consolidating the certification process for massage therapists. He outlined the topics that were discussed regarding this matter at a County-wide workshop that was hosted at that time by the City of Belmont, including anticipated changes in State law that would be forthcoming.

City Attorney Zafferano noted that at that time, some cities adopted moratoria on new massage permits, some amended their ordinances, and others, including Belmont, took a wait and see approach. He explained that the number of new massage permit requests have increased since that time. He clarified that CAMTC recently issued a list of massage therapy schools that do not meet the criteria, and some therapists in Belmont attended those schools.

City Attorney Zafferano explained that the proposed moratorium prohibits the issuance of any new massage therapy license, as well as the expansion of any existing facility. He further explained that existing licenses can be renewed, and that the moratorium is not applicable to CAMTC-certified therapists if there are otherwise no violations. He clarified that an urgency ordinance requires four affirmative votes, and an extension of the moratorium beyond the 45-day period may be needed in order to update the massage ordinance.

In response to Mayor Wozniak, City Attorney Zafferano clarified that the difference between a therapist and practitioner depends upon the degree of qualification and what services they are able to provide.

Mayor Wozniak opened the Public Hearing.

Susan Fleming, The Relaxation Center/Massage Therapist, requested clarification regarding her ability to move to a different facility. She expressed support for CAMTC, and noted that there is a need to separate therapy from adult entertainment.

City Attorney Zafferano explained that the moratorium would not be applicable if she were to move her business to a different location.

Ahmos Netanel, CEO of California Massage Therapy Council (CAMTC), thanked City staff for engaging the CAMTC board in this matter. He explained that CAMTC's objective is public protection, and he stated that CAMTC looks forward to working together with the City on this issue.

ACTION: Councilmember Braunstein made a motion, seconded by Councilmember Warden, to close the Public Hearing.

In response to Council questions, City Attorney Zafferano clarified provisions of the moratorium. He noted that it exempts establishments where all therapists are certified, and that as long as there is no proposed expansion of one's business, it is not subject to the moratorium. He also explained that staff will make contact with all therapists who attended the suspect schools, and noted that if they can demonstrate their training and education, they have the ability to appeal any revocation of their permit.

ACTION: On the motion made previously to close the Public Hearing, said motion was unanimously passed by a roll call vote.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Braunstein, Urgency Ordinance 1051 Pursuant to Government Code Section 65858(a) Imposing a Moratorium on Issuance of New Massage Technician and Massage Establishment Permits was unanimously adopted by a roll call vote.

At this time, being 8:07 P.M., Councilmember Lieberman left the meeting.

Public Hearing Pursuant to Provisions of Proposition 218 to Consider an Ordinance Increasing the City's Solid Waste Charges

Finance Director Fil stated that meetings were held in April to determine the new solid waste rates, and he described the subsequent outreach to ratepayers. He explained the regressive rate structure that will be in effect in January of 2011 when the new franchise agreement begins with Recology. He stated that staff has fielded a few calls regarding the rates and the new trash service. He noted that the potential for a 10-gallon rate has been discussed with Recology.

Robert Dubin, Belmont resident, stated that he is one of 43 residents who currently uses a 10-gallon trash container, and that the new franchise agreement has no provisions for that size container due to technological issues. He pointed out that the percentage increase of those using a 96-gallon container will be less than his increase, which is inequitable. He recommended grandfathering those who currently use a 10-gallon container.

Frederick Palmer, Belmont resident, stated that the new rate structure has no provisions for a 15-gallon container. He noted that with the new franchise agreement, he will likely need an even smaller trash can due to increased recycling. He outlined the increases in rates in July and again next January. He expressed support for the emphasis on recycling, and expressed a desire for a smaller trash can option.

ACTION: On a motion by Councilmember Braunstein, seconded by Councilmember Feierbach, the Public Hearing was unanimously closed by a show of hands (4-0, Lieberman absent).

Michael Brown, Solid Waste Consultant, explained the issue regarding the inability for the new automated trash pickup to service a 10-gallon can. He noted that personal service on such containers is expensive. He noted that the Council could consider grandfathering those currently using containers less than 20 gallons, which would result in a small loss of revenue. He noted that it will be difficult to administer the accounts of those who are grandfathered.

Mayor Wozniak noted that residents receive many other services besides solid waste pickup, such as weekly recycling, and household hazardous waste removal.

In response to Council questions, Mr. Brown explained that the first performance review is one year after the new franchise agreement commences. Any new technology available for smaller cans could be initiated at that time.

Councilmember Warden expressed support for grandfathering those using cans smaller than 20 gallons.

Finance Director Fil stated that this issue could be reviewed before the January rates go into effect. He expressed concern regarding the impact on other rate payers.

Councilmember Braunstein stated that the need for a 96-gallon can option might be eliminated with increased participation in recycling. He expressed support for consideration of grandfathering in those using 10-gallon cans, but was concerned regarding the impact on other customers. He noted that all customers are benefitting from other programs.

Councilmember Feierbach stated that she does not support grandfathering of 10-gallon customers. She noted that other customers will have to pay more to make up the revenue, and it could pose a bookkeeping problem.

Council concurred to look into this issue in more detail for the future.

ACTION: On a motion by Councilmember Braunstein, seconded by Councilmember Feierbach, and unanimously approved by a show of hands (4-0, Lieberman absent) to introduce an Ordinance Increasing the City's Solid Waste Charges, to waive further reading, and to set the second reading and adoption for August 10, 2010.

OLD BUSINESS

Motion to Accept Labor Concessions Offered by Belmont Police Officers Association (BPOA)

Interim City Manager de Melo stated that at the Closed Session held on July 21st, the City Council voted 4-0 (Braunstein absent) to accept the labor concession offered by the Belmont Police Officers Association (BPOA). He noted that the budget reduction goal has now been met.

Mayor Wozniak thanked the negotiating teams, and expressed her appreciation for all employees who made concessions. She noted that everyone contributed to the budget solution which resulted in no layoffs.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Braunstein, and unanimously approved by a show of hands (4-0, Lieberman absent) to accept the labor concessions offered by Belmont Police Officers Association (BPOA).

NEW BUSINESS

Review of Alternatives Analysis Comments for High Speed Rail Project

Community Development Director de Melo acknowledged Planning Commissioner Mercer and Interim City Engineer Alvarez for their assistance in drafting the alternatives analysis comments. He noted that the draft comments are comprehensive and address all of the concerns of the project. He provided a history of the State-wide ballot measure that supported the installation of high speed rail in California. He explained that the draft Environmental Impact Report (EIR) is

to be released in December of 2010, with the final EIR to be completed by September of 2011. He stated there will be additional outreach meetings hosted by the City of Belmont.

Community Development Director de Melo described the options being considered for design, as well as the cost estimates for each. He noted that providing for a temporary structure will add to the cost. He explained that the High Speed Rail Authority has begun to identify right-of-way needs for each alternate.

Councilmember Feierbach recommended including some verbiage in the alternatives analysis comments to address the effect on Notre Dame de Namur University (NDNU).

William Sangervasi, Belmont resident, recommended that Highway 101 be considered as an alternate location for the high-speed rail route. He commented that high speed rail is used extensively in Europe. He expressed concerns regarding aesthetics. He also questioned the effect this may have on Caltrain.

Mayor Wozniak responded that the High Speed Rail Authority is working with Caltrain to address many issues. She noted that electrification could help Caltrain.

Council concurred to add verbiage regarding NDNU, and concurred with the remainder of the proposed comments.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Braunstein reported that the Audit Committee met and will be bringing forth financial policies to the full City Council for discussion.

Update on High Speed Rail – Discussion Regarding Ad Hoc Committee

Community Development Director de Melo stated that staff has recommended the structure, scope and mission of a High Speed Rail Ad Hoc Committee. He clarified that the purpose of the committee would be to perform research and outreach. He outlined the process for selection of members. He recommended that interested persons submit a letter of interest.

Mayor Wozniak suggested including someone from the bicycle community. She noted that this committee would be a working group.

Councilmember Feierbach recommended erecting story poles to indicate the location of the high-speed rail structure.

Discussion ensued regarding the selection of committee members.

Community Development Director de Melo advised that staff would return to Council to refine the selection should there be a great deal of interest.

Councilmember Braunstein expressed concern regarding the fiscal impact of this endeavor, and noted the need to allocate resources. He stated that money is being spent regardless of whether or not it has been allocated. He would like to ensure that staff time is accounted for.

Mayor Wozniak indicated that other cities have budgeted considerable funds for this project. She noted that if resources are not allocated, the outcome may not be desirable.

Council concurred regarding the recommended approach for the formation of the ad hoc committee.

Mayor Wozniak reported on the recent Peninsula Cities Consortium (PCC) meeting held recently in Belmont. She noted that only one meeting will be held in August. She described a presentation that was made at the policymaker's working group meeting.

Verbal report from Interim City Manager

Acting City Manager de Melo stated that the South Bayside System Authority (SBSA) September meeting has been canceled. He stated he attended a Chamber of Commerce Board meeting, as well as a meeting of the San Mateo County City Managers.

ADJOURNMENT at this time, being 9:25 P.M., to Continued Closed Session to Consider:

- B. Conference with Real Property Negotiator de Melo pursuant to Government Code Section 54956.8: Eight Parcels, APN's 044-222-210, 043-030-010, 043-030-020, 043-030-260, 043-030-270, 043-030-280, 043-021-540, & 043-021-690

Attended by: Councilmembers Feierbach, Wozniak, Warden, Braunstein, Acting City Manager/Community Development Director de Melo, City Attorney Zafferano, Councilmember Lieberman was absent, and City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 10:30 P.M.

**Terri Cook
City Clerk**

Meeting Tape Recorded and Videotaped (not Closed Sessions)
Audio Recording 765